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ACUA

Atlantic County Utilities Authority

P.O. Box 996 • Pleasantville, NJ, 08232-0996

street address: 6700 Delilah Rd., Egg Harbor Twp., NJ, 08234-5623

609.272.6950 • www.acua.com • info@acua.com

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Attention: Docket No. EP 684

Surface Transportation Board

395 E Street, S.W.

Washington, D.C. 20423-0001

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To Whom It May Concern:

These comments are filed in response to the Surface Transportation Board's March 14, 2011 (Service Date March 24, 2011) Revised Notice of Proposed Rulemaking ("Revised Notice") amending interim rules noticed in its January 14, 2009 Notice of Proposed Rule Making. The Revised Notice contained proposed rules to implement the provisions of the Clean Railroads Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848, and indicated that comments on the proposal could be submitted to the Surface Transportation Board by May 23, 2011.

We have reviewed the Revised Notice and the comments prepared on the Notice by the National Solid Wastes Management Association, which are being submitted to you by separate letter, and we adopt the comments of the National Solid Wastes Management Association in their entirety.

We have two additional comments we wish to submit.

First, In Section 1155.2 Definitions, at subsection (e), "State requirements" is defined "as used in 49 U.S.C. section 10908 does not include the laws, regulations, ordinances, orders or other requirements of a political subdivision of a state, including a locality or municipality, unless a state expressly delegates such authority to a political subdivision." Specifically, although not exclusively, it should be noted that in New Jersey, and perhaps other states, delegation of state authority may be to an entity other than a "locality or municipality" and that a utility authority may, and in New Jersey, does constitute a political subdivision. As such, entities such as County Utilities Authorities in New Jersey which have been designated as the implementation agency for the State Solid Waste Management Plan should be entitled to notice at each level of the process.

The Atlantic County Utilities Authority is responsible for enhancing the quality of life through the protection of waters and lands from pollution by providing responsible waste management services. The Authority is an environmental leader and will continue to use new technologies, innovations and employee ideas to provide the highest quality and most cost effective environmental services.

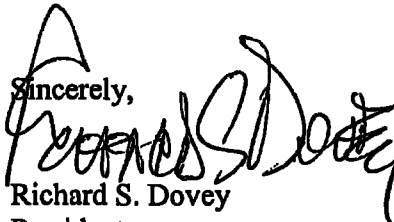


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Second, Section 1155.12 (b) reads as follows:

"A facility can acknowledge that it was a solid waste rail transfer facility on October 16, 2008, but no longer operates as such and therefore is not required to seek a land-use-exemption permit. To do so, a facility must file with the Board a certification stating that it: (1) no longer operates as a solid waste transfer facility; (2) understands that by certifying that it no longer operates as a solid waste transfer facility, it no longer qualifies as a facility in existence on October 16, 2008 for purposes of the Clean Railway Act and these regulations; and (3) understands that if it seeks a land-use-exemption permit in the future, it would be required to do so as a proposed facility."

Assuming a facility can prove it was operating as a solid waste rail transfer facility October 16, 2008, and has since ceased operations, does this section render the facility, should it seek to restore operations, to be subject to review as a proposed facility, and under what circumstances, if any, may a facility which "no longer operates as such" allege continuous operations to maintain its exemption?

Sincerely,

Richard S. Dovey
President

cc Steven Richmond, Esq.
Counsel for NSWMA

Paul J. Gallagher, Esq.
General Counsel for ACUA